

## **COMMUNITY DEVELOPMENT AGENCY**

#### **DEVELOPMENT SERVICES DIVISION**

http://www.edcgov.us/DevServices/

PLACERVILLE OFFICE: 2850 Fairlane Court, Placerville, CA 95667 BUILDING (530) 621-5315 / (530) 622-1708 Fax bldgdept@edcqov.us PLANNING (530) 621-5355 / (530) 642-0508 Fax planning@edcgov.us LAKE TAHOE OFFICE: 3368 Lake Tahoe Blvd., Suite 302 South Lake Tahoe, CA 96150 (530) 573-3330 (530) 542-9082 Fax tahoebuild@edcgov.us

TO: Planning Commission

Agenda of: November 13, 2014

FROM: Joe Prutch, Project Planner

DATE: November 5, 2014

RE: S13-0014/AT&T Silva Valley Parkway Cellular Site (Mono-Oak) Clarification of Motion made at the October 23, 2014 Meeting

The above item was reviewed and approved at the October 23, 2014, Planning Commission meeting. A motion made was to accept Staff's original recommendation to adopt a negative declaration, approve Special Use Permit S13-0014 based on the Findings and subject to the Conditions of Approval as presented in the Staff Report dated June 26, 2014, and include the recommended revisions to Condition 15 from the Staff Memo dated October 22, 2014. This motion was unanimously approved.

Staff later noticed that there was one piece of the puzzle missing from the above motion. In between the two dates of the report and memo was a second Staff Memo dated September 9, 2014 that included a list of revised Conditions of Approval, including the addition of a new Condition 15, that was subsequently revised in the October 22, 2014 Staff Memo.

Staff recommends that the motion made on October 23, 2014 be amended to include the Staff Memo dated September 9, 2014 so that the full motion would read as follows:

- 1. Adopt the Negative Declaration based on the Initial Study prepared by staff;
- 2. Approve Special Use Permit S13-0014 based on the Findings and subject to the Conditions of Approval;
- 3. Approve the revisions to the Conditions of Approval as presented in the Staff Memo dated September 9, 2014 (Attachment A); and
- 4. Approve the revisions to Condition of Approval 15 as presented in the Staff Memo dated October 22, 2014 (Attachment B).

\\dsfs0\DS-Shared\DISCRETIONARY\S\2013\S13-0014 EID Mono-Oak\S13-0014 Staff Memo 11-05-14 (Motion Clarification).docx



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September 11, 2014

Agenda of:

TO:Planning CommissionFROM:Joe Prutch, Project Planner

DATE: September 9, 2014

RE: S13-0014/AT&T Silva Valley Parkway Cellular Site (Mono-Oak) Revised Site Plans, Elevations, and Conditions

#### Background

This project originally was scheduled to be heard June 26, 2014. At that hearing, the applicant asked for continuance to allow time to work on an agreement with the Serrano Home Owners Association and get photographs of a mono-oak cell tower that was being constructed in Fairfield. The project was continued to August 28, 2014. Because of a lack of quorum for the August 28, 2014 hearing date, the project was continued to the September 11, 2014 hearing date.

Since the original hearing date the applicant has supplied a photograph of the Fairfield mono-oak (Attachment 1), revised photo simulations (Attachment 2), worked with the Serrano HOA on an agreement to use the private road Cabrito Drive for access to the tower site, supplied a unanimous support letter from the El Dorado Hills Area Planning Advisory Committee (Attachment 3), and submitted revised site plans (Attachment 4) showing additional branches to fill the lower half of the tower, as requested by the Serrano HOA, and revised underground telco conduit route from the tower facility to a telco vault at Silva Valley Parkway.

#### Analysis

The mono-oak photograph appears to be asymmetrical with full branches to camouflage the antennas. The Serrano HOA reviewed the photo and asked that the applicant supply more branches along the bottom portion of the pole for a fuller look. The applicant agreed to this request and has shown this change on the revised elevation plans (Sheets A-2 & A-3).

An agreement between the applicant and the Serrano HOA has not been reached as of the date of this memo. There could be an agreement by the time of the hearing. However, staff is recommending a condition addressing this issue should an agreement not be reached by the hearing date. Staff recommends the Planning Commission approve the revised conditions found below, which includes the following condition:

# ATTACHMENT A

14-0767 5A 2 of 12

15. **Agreement for Cabrito Drive**: The applicant shall work with the Serrano HOA to reach an agreement for the use of Cabrito Drive for access to the cell tower facility. A copy of said agreement, or letter from the Serrano HOA stating that an agreement has been met, shall be delivered to Planning Services prior to issuance of a building permit for the tower.

The underground conduit route was originally planned to connect the south comer of the lease area to a telco vault at Silva Valley Parkway located just south of the entrance to the school's parking lot. The trench was to cross over EID's water tank property and Serrano Associates, LLC vacant open space property and also be situated to avoid oak tree root zones. Exhibit G in the staff report shows trench location photos. The revised site plans (Sheets A-O & A-I) show a trench location that runs from the north side of the lease area to the west comer of EID's water tank site, then due west 800 feet to a telco vault at Silva Valley Parkway just north of the entrance to the school's parking lot. The proposed trench would cross over EID's water tank property, Serrano Associates, LLC vacant open space property, and Buckeye Union School District property (Rolling Hills Middle School) and could be located close to or within oak tree root zones. However, an oak tree is not considered 'taken' unless 25 percent or more of its under canopy dripline is impacted. If the trench is located within an oak tree canopy dripline, the applicant will have to show this on building plans and mitigate accordingly.

The recommendation from the original staff report is changed as follows:

**RECOMMENDATION:** Staff recommends the Planning Commission take the following actions:

- 1 Adopt the Negative Declaration based on the Initial Study prepared by staff; and
- 2 Approve Special Use Permit S13-0014 based on the Revised Findings and subject to the Revised Conditions of Approval as presented in the Staff Memo dated September 9, 2014.

#### ATTACHMENTS TO STAFF MEMO

Revised Conditions of Approval Revised Findings

Attachment 1 Photograph of Fairfield Mono-Oak
Attachment 2 Revised Photo Simulations
Attachment 3 EDH Area Planning Advisory Committee Letter
Attachment 4 Revised Site Plans and Elevations

#### **REVISED CONDITIONS OF APPROVAL**

#### Special Use Permit S13-0014/AT&T Silva Valley Parkway Cellular Site (Mono-Oak) Planning Commission/September 11, 2014

#### **Planning Services**

1. This Special Use Permit is based upon and limited to compliance with the project description, the following hearing exhibits, and conditions of approval set forth below:

Exhibit E-I Site Plan, Sheet A-O; November 22, 2013 7/29/2014 Exhibit E-2 Enlarged Site Plan, Sheet A-I; November 22, 2013 7/29/2014 Exhibit E-3 Equipment Floor Plan, Sheet A-1.I; November 22, 2013 7/29/2014 Exhibit E-4 East and West Elevation, Sheet A-2; November 22, 2013 7/29/2014 Exhibit E-5 North and South Elevation, Sheet A-3; November 22, 2013 7/29/2014 Exhibits F-I to F-3 <u>Revised</u> Visual Simulations Exhibit G Trench Location Photos (three pages)

Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

Approval of the Special Use Permit allows the construction and operation of a new multi-user wireless communications facility to support cellular transmission within the existing 3.2-acre parcel identified by Assessor's Parcel Number 121-190-35, and consisting of the following:

a. Up to 12 panel antennas mounted at the centerline of 55 feet on a 65-foot tall mono-oak pole, with the top branches not to exceed 65 feet;

b. Two microwave dishes;

c. One 15-foot by 24-foot ground equipment shelter within a 25 foot by 34 foot AT&T lease area to house equipment cabinets and associated equipment;

d. One 7-foot tall CMU split face block wall constructed around the perimeter of the ground equipment shelter, with one 42 inch wide access gate;

e. One, 5-foot wide utility easement for undergrounding the electrical and telecommunications utilities for a distance of approximately 800 feet between the northwest comer of the equipment shelter EID's water tank site to the east side of Silva Valley Parkway, to be located as shown on Sheet A-O.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and

conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

#### **Development Services Division (Planning)**

- 2. **Expiration:** Pursuant to County Code Section 17.22.250, implementation of the project shall occur within twenty-four (24) months of approval of this permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with Conditions of Approval.
- 3. **Responsibility for Interference:** The applicant shall assume full responsibility for resolving television reception interference or other electrical interference caused by the operation of this facility. The applicant shall take corrective action within 30 days of the receipt of any written complaint.
- 4. **Co-locating:** For co-location purposes, no further review by the Planning Commission shall be required provided that all ground-mounted equipment is located within the proposed lease area, and that there shall not be an increase in overall height of the tower and branches.
- 5. **Facility Appearance and Screening:** All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color to comply with the screening requirements of Section 17.14.210.F of the County Code. The pole shall have simulated bark, and the RF antennas shall be painted with non-reflective paint and maintained to match the color of the branch needles. All antennas shall either be covered with antenna socks that shall match the color and texture of the branch leaves or painted to match the color of the branch leaves. The "branches" shall be installed with random lengths that create an asymmetrical appearance conforming to the shape of a natural oak tree. No antenna shall project out past the "branch" tips. Planning Services shall verify the painting of all structures prior to final inspection and approval of the facility.
- 6. **Facility Maintenance:** All improvements associated with the communication facility, including equipment shelters, antennae, and fencing shall be properly maintained at all times. Colors of the panels, equipment enclosure, and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
- 7. **Conditions Compliance:** Prior to issuance of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to Building Permit final for any Building Permit for verification of compliance with applicable Conditions of Approval.
- 8. **Obsolete Equipment:** All obsolete or unused communication facilities shall be removed within six months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify Planning Services at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project conditions.

- 9. **Five-Year Review:** Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the County Development Services Department every five years. At each five-year review, the permit holder shall provide the Development Services Department with a status report on the then current use of the subject site and related equipment. Development Services shall review the status and determine whether to:
  - a. Allow the facility to continue to operate under all applicable conditions; or
  - b. Hold a public hearing to determine whether to modify the conditions of approval in order to reduce identified adverse impacts; or initiate proceedings to revoke the special use permit, requiring the facility's removal if it is no longer an integral part of the wireless communications system.

By operation of this condition, it is the intent of County to reserve the right to modify or add new conditions, consistent with the language specified above. The failure of the County to conduct or complete a five-year review in a timely fashion shall not invalidate the Special Use Permit. The applicant shall pay a fee determined by the Development Services Director to cover the cost of processing a five-year review on a time and materials basis.

- 10. **Compliance Responsibility:** The operator (lessee) and property owner (lessor) are responsible for complying with all conditions of approval contained in this Special Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.
- 11. **Payment of Processing Fees-Development Services:** The applicant shall make the actual and full payment of Planning and Building Services processing fees for the special use permit and building permits prior to issuance of a building permit.
- 12. Archeological Resources: The following shall be incorporated as a note on the grading/improvement plans:

In the event archeological resources are discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place. If the find is determined to be a "unique archaeological resource", contingency funding, and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in Section 21083.2 of the Public Resources Code. Construction work could continue on other parts of the project site while archaeological mitigation takes place.

If the find is determined to be a "unique archeological resource", the archaeologist shall determine the proper method(s) for handling the resource or item in accordance with Section 21083.2(b-k). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken or the site is determined a "nonunique archeological resource".

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

13. **Human Remains:** The following shall be incorporated as a note on the grading/improvement plans:

In the event of the discovery of human remains, all work shall cease and the County coroner shall be immediately notified pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

14. **Hold Harmless Agreement:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a special use permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

15. Agreement for Cabrito Drive: The applicant shall work with the Serrano HOA to reach an agreement for the use of Cabrito Drive for access to the cell tower facility. A copy of said agreement, or letter from the Serrano HOA stating that an agreement has been met, shall be delivered to Planning Services prior to issuance of a building permit for the tower.

#### **Environmental Management-Solid Waste and Hazardous Materials Division**

16. **Hazardous Materials:** Under the CUPA programs, if the operation will involve the storage of reportable quantities of hazardous materials (55 gallons, 500 pounds, 200 cubic feet) for backup power generation, a hazardous materials business plan for the site must be submitted to the Community Development Agency/Environmental Management Division and applicable fees paid.

#### Air Quality Management District

- 17. Asbestos Dust: Current county records indicate this subject property is located within the Asbestos Review Area. An Asbestos Dust Mitigation Plan (ADMP) Application with appropriate fees shall be submitted to and approved by the AQMD prior to project construction. (Rules 223 and 223.2) if the project will move more than 20 cubic yards of earth or requires a Grading Permit. The project shall adhere to the regulations and mitigation measures for fugitive dust emissions asbestos hazard mitigation during the construction process. Mitigation measures for the control of fugitive dust shall comply with the requirements of Rule 223 and 223.2.
- 18. **Paving:** Project construction may involve road development and shall adhere to AQMD Rule 224 Cutback and Emulsified Asphalt Paving Materials. (Rule 224).
- 19. **Painting/Coating:** The project construction may involve the application of architectural coating, which shall adhere to AQMD Rule 215 Architectural Coatings.
- 20. **Construction Emissions:** During construction, all self-propelled diesel-fueled engines greater than 25 horsepower shall be in compliance with the California Air Resources Board (ARB) Regulation for In-Use Off-Road Diesel Fueled Fleets (§ 2449 et al, title 13, article 4.8, chapter 9, California Code of Regulations (CCR)). The full text of the regulation can be found at ARB's website here: http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm. An applicability flow chart can be found here: http://www.arb.ca.gov/msprog/ordiesel/faq/applicability\_flow\_chart.pdf. Questions on applicability should be directed to ARB at 1-866-634-3735. ARB is responsible for enforcement of this regulation.
- 21. **New Point Source:** Prior to construction/installation of any new point source emissions units (i.e., gasoline dispensing facility, emergency standby engine, etc.), Authority to Construct applications shall be submitted to the AQMD. Submittal of applications shall include facility diagram(s), equipment specifications and emission factors. (Rule 501 and 523).
- 22. **Portable Equipment:** All portable combustion engine equipment with a rating of 50 horsepower or greater shall be under permit from the California Air Resources Board (CARB). A copy of

the current portable equipment permit shall be with said equipment. The applicant shall provide a complete list of heavy-duty diesel-fueled equipment to be used on this project, which includes the make, model, year of equipment and daily hours of operations of each piece of equipment.

#### **El Dorado Hills Fire Department**

- 23. The structure shall have a fire department approved KNOX box installed to contain the master key to open all exterior doors. KNOX box order forms are available at El Dorado Hills Fire Department, located at 1050 Wilson Blvd., El Dorado Hills, CA 95762.
- 24. Any access gate(s) shall have a fire department approved KNOX box padlock installed to allow for emergency access.
- 25. A KNOX Key shunt system shall be installed to terminate power to generators, if installed.
- 26. The applicant shall provide and maintain a minimum of one 2A 10B:C fire extinguisher. The extinguisher shall be mounted where readily available within the enclosure to the equipment.
- 27. The applicant shall maintain a 30 foot clearance of dry weeds to a height of 2 inches or less around the structures, to be completed annually by June 1.

#### FINDINGS

#### Special Use Permit S13-0014/AT&T Silva Valley Parkway Cellular Site (Mono-Oak) Planning Commission/September 11, 2014

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

#### **1.0 CEQA FINDINGS**

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received during the public review process. The Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this project.
- 1.2 No significant impacts to the environment as a result of this project were identified in the initial study.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department Planning Services at 2850 Fairlane Court, Placerville, CA, 95667.

#### 2.0 GENERAL PLAN FINDINGS

- 2.1 The project is consistent with the Open Space (OS) land use designation of the subject site as defined by General Plan Policy 2.2.1.2. The project consists of a telecommunications tower, which is consistent with the allowed uses for the OS Zone District with an approved Special Use Permit.
- 2.2 As conditioned, and with adherence to County Code, the project is consistent with all applicable Policies of the General Plan, including:
- 2.2.1 Policy 2.2.5.21 (compatibility with surroundings) because as conditioned, it would be compatible with surrounding uses, have minimal impacts on visual resources, existing utilities, existing emergency response access and times, and will create noises at insignificant levels. There are adequate services to facilitate the site, such as water, power and telephone communication facilities. The project provides improved cellular service for phone, as well as internet and emergency communications to the El Dorado Hills area;
- 2.2.2 Policy 5.1.2.1 (adequate utilities and public services) because the project will connect to existing electrical and telecommunication facilities currently existing within the parcel;
- 2.2.3 Policy 6.2.3.2 (adequate access) because the project will utilize an existing paved driveway surface for access; and
- 2.2.4 Policy 6.5.1.7 (noise exposure) because the project will have noise levels anticipated to comply with the County's standards listed in Table 6-2 in the General Plan that limit acoustical noise emission levels.

#### **3.0 ZONING FINDINGS**

- 3.1 The project site is zoned Open Space (OS), which allows wireless communication facilities with an approved special use permit, provided they follow standards and permitting requirements defined in Section 17.14.210 of the County Code. These standards include screening, compliance with setbacks, and proper maintenance.
- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance because sufficient screening, setbacks, and maintenance have been provided.

#### 4.0 SPECIAL USE PERMIT FINDINGS

#### 4.1 The issuance of the permit is consistent with the General Plan.

The proposed use is consistent with the policies and requirements in the El Dorado County General Plan, as discussed in the General Plan and Special Use Permit sections of this Staff Report. The proposed use is consistent with all applicable policies as set forth in Finding 2.0.

## 4.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.

The use will not significantly conflict with the adjacent uses as the ground-support equipment will be buffered from view by a seven-foot tall CMU split face block wall, and the tower antennas will be buffered by the mono-oak "branches". The view of the tower will be buffered by the existing trees and the water tanks. As conditioned, the project is anticipated to result in insignificant environmental, visual, and noise impacts to surrounding residents and school. The proposed use is not anticipated to create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the staff report. At one percent or less of the public safety standard established by the FCC, the risk of Radio Frequency ("RF") emissions to the surrounding public is remote.

#### 4.3 The proposed use is specifically permitted by Special Use Permit.

The proposed use complies with the requirements of County Code Section 17.14.210.E through J (facility requirements/analysis) and 17.68.060 (minimum yard setbacks for OS Zone District).



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TO: Planning Commission

Agenda of: October 23, 2014

FROM: Joe Prutch, Project Planner

DATE: October 22, 2014

RE: S13-0014/AT&T Silva Valley Parkway Cellular Site (Mono-Oak) Possible Continuance and Revision to Condition #15

Since June 26, 2014, the above item has been continued three times; twice by the applicant and once by the County because of a lack of quorum. As of October 22, 2014, the applicant informed staff that they are still working through off-site agreement details for access and utility easements. As such, Planning Services revised a condition of approval to allow the applicant to work with adjacent property owners on these civil matters and have them resolved prior to issuance of a building permit. This revised condition would allow Staff and the Planning Commission to move forward on this item.

Your Commission may decide to hear and act on the item today with the recommendation from staff to revise the following condition or continue this item off-calendar to allow the applicant the time needed to finalize various off-site agreements.

Revised Condition

15. <u>Agreement for Cabrito Drive Access & Utility Easements</u>: The applicant shall work with Serrano HOA, <u>Parker Development</u>, Inc. and <u>Buckeye School District</u> to reach an agreement(s) for the use of <u>Cabrito Drive off-site property</u> for access to the cell tower facility <u>and utility easements</u>. A copy of said agreement(s), or letter from <u>Serrano HOA</u> <u>all parties involved</u>, stating that an agreement has been met, shall be delivered to Planning Services prior to issuance of a building permit for the tower.

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# ATTACHMENT B